IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 243 OF 1988.

The Commissioner of Income-tax. ... Applicant.

V/s.

M/s.Agis Chemical Industries Ltd. ... Respondent.

Ashok Kotangale i/b. K.C.Sidhwa
for the applicant.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 28th June 2005.

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure of Rs.1,73,932/- incurred by the assessee in connection with the proceedings in the Gujarat High Court under sections 397 and 398 of the Companies Act, is an expenditure wholly and exclusively laid out or expended for the purpose of business within the

meaning of section 37(1) of the Income-tax Act, 1961?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure of Rs.1,73,992/- incurred by the assessee was not of capital nature?

. Learned counsel for the parties agreed that in view of the decision of the Apex Court in the case of **C.I.T. v. Bombay Dyeing and Mfg.Co.Ltd.,** (1996) 219 ITR 521, both questions referred to us are covered and have to be answered in the affirmative i.e. in favour of the assessee and against the revenue. We answer the questions accordingly.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.qDAGA, J.)**